

[Advisory Opinion 1995-15]

October 18, 1995

To: [Name1 withheld]
Bethesda-Chevy Chase Government Center

FROM: Jay L. Cohen, Chair [signed]
Montgomery County Ethics Commission

RE: Request for Advisory Opinion—Conflict of Interest of Advisory Board Members

You have asked for advice regarding the members of the Bethesda-Chevy Chase Citizens Advisory Board who are attorneys. In particular, you have indicated that occasionally these individuals are retained as attorneys for developers or civic associations to handle zoning and other land use issues. The role of the Advisory Board members includes providing advice and input on some of these same matters. This has raised the questions of when a Board member must recuse himself from participating in discussion and/or a vote on such a matter when it involves their client. A related question arises as to when a more general discussion of concepts would be permitted or prohibited.

Based upon the information you have provided, the Commission must advise you that a Board member may not participate in either the discussion or the vote regarding a matter involving a client that the Board member represents as an attorney. This is based upon §19A-11(a)(2)(E) of the Ethics Law, which states in pertinent part:

- (a) *Prohibitions.* Unless permitted by a waiver, a public employee must not participate in:

* * *

- (2) any matter if the public employee knows or reasonably should know that any party to the matter is:

* * *

- (E) any business or individual that is a party to an existing contract with the public employee or a relative, if the contract should reasonably result in a conflict between private interests and official duties . . .

Based on this provision, an Advisory Board member must not participate in the discussion or the vote on a particular case that involves his client. The Advisory Board member may participate, however, in a general discussion of issues that are unrelated to any clients they may represent in an attorney capacity.

If you have any questions concerning this decision, please do not hesitate to contact the Commission.

cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission